

Message Text

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ORIGIN EB-08

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ARA/ECA:JBUMPUS

-----062004 022204Z /64

P 022131Z AUG 78
FM SECSTATE WASHDC
TO AMEMBASSY BUENOS AIRES PRIORITY

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E.O. 11652: N/A

TAGS: EAIR, AR

SUBJECT: FAIR COMPETITIVE PRACTICES ACT INVESTIGATION

REF: A) STATE 197904, B) BUENOS AIRES 3231

1. DEPARTMENT APPRECIATES PROMPT EMBASSY RESPONSE TO REF
A. UNFORTUNATELY, REF B SEEMS TO CONFIRM GROWING USG
SUSPICION THAT GOA IS UNABLE OR UNWILLING TO SUPPLY DOT
WITH PROMISED COST INFORMATION ON LANDING FEES AND GROUND
HANDLING MONOPOLY AT ESEIZA AIRPORT IN BUENOS AIRES.
AIRPORT COST INFORMATION SUPPLIED TO ICAO WILL NOT BE MADE
AVAILABLE TO OTHER ICAO MEMBERS UNTIL LATE 1978 AT THE
EARLIEST, AS GOA IS NO DOUBT AWARE. GOA'S ORIGINAL
AGREEMENT WAS TO SUPPLY THE ICAO INFORMATION DIRECTLY TO
USG, ALONG WITH AN ANALYSIS OF THE GROUND HANDLING
SERVICES PROVIDED BY AEROLINEAS ARGENTINAS (AR).

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2. AS THE EMBASSY IS AWARE, BRANIFF HAS REFUSED TO PAY
THE 70 PERCENT INCREASE IN HANDLING FEES IMPOSED BY AR
IN AUGUST 1976, AND ESTIMATES THAT ITS BACK PAYMENTS ARE

IN EXCESS OF 180,000 DOLLARS. BRANIFF SAYS IT IS UNDER
INCREASING PRESSURE FROM AR TO PAY THE ARREARS, AND FEELS

THAT AR EVENTUALLY MAY REFUSE TO SERVICE ITS FLIGHTS. PAN

AM APPEARS TO HAVE SETTLED ITS DISPUTE WITH AR AND THE GROUND HANDLING PAYMENTS WHICH IT ALSO WAS WITHHOLDING ARE BEING PAID IN FULL, ALTHOUGH PAN AM WOULD PREFER TO HAVE THE OPTION TO SELF-HANDLE.

3. DOT IS IN THE PROCESS OF COMPLETING ITS INVESTIGATION OF THE EZEIZA AIRPORT CHARGES AND SERVICES. AT THIS POINT, IT APPEARS AS IF DOT WILL RECOMMEND THAT THE USG TAKE UNDER ACTION UNDER THE FAIR COMPETITIVE PRACTICES ACT (FCPA).

4. USG WOULD PREFER TO SETTLE THIS ISSUE WITHOUT INVOKING THE FCPA, BUT WE HAVE VIRTUALLY EXHAUSTED THE POSSIBILITY OF PURSUING A SOLUTION TO THIS PROBLEM INFORMALLY. DOT AND THE DEPARTMENT ARE UNDER INCREASING PRESSURE FROM THE CONGRESS AND THE INDUSTRY TO MOVE RAPIDLY ON FCPA CASES. IF WE PROCEED TO ACTION UNDER THE FCPA, ARGENTINA'S AVIATION PRACTICES COULD COME UNDER CLOSE SCRUTINY BY OTHER USG AGENCIES AND CONGRESS.

5. WE WOULD HOPE THAT THE GOA WILL RECONSIDER THE USG PROPOSALS ON AIRPORT FACILITIES AND SERVICES:

(1) AIR CARRIERS SHOULD BE CONSULTED BEFORE USER CHARGES ARE IMPOSED, AND CHARGES SHOULD BE REASONABLY LIMITED OFFICIAL USE

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RELATED TO THE COSTS OF PROVIDING THE SERVICES AND FACILITIES:

(2) THE US CARRIERS SHOULD BE GIVEN THE OPTION OF DOING THEIR OWN GROUND HANDLING OR CHOOSING A GROUND HANDLING AGENT.

NOTE: ALTERNATIVE SUGGESTED BY THE CHAIRMAN OF THE ARGENTINE DELEGATION DURING THE 1977 BILATERAL NEGOTIATIONS THAT AR BE REQUIRED TO USE THE US CARRIERS FOR ITS GROUND HANDLING IN THE U.S. WOULD NOT RELIEVE THE INEQUITABLE CONDITIONS IN ARGENTINA AND IS CONSIDERED BY USG TO BE OF LITTLE REAL VALUE TO BRANIFF OR PAN AM.

6. ACTION REQUESTED: EMBASSY REQUESTED PASS SUBSTANCE THIS MESSAGE TO APPROPRIATE GOA AUTHORITIES. AT MINIMUM, USG NEEDS QUICKLY COST INFORMATION WHICH WAS PROMISED TO US.

UNTIL THE GROUND HANDLING ISSUE IS RESOLVED, EMBASSY SHOULD ALSO SUGGEST TO GOA THAT AR DEMAND FOR PAYMENT OF THE DISPUTED INCREASE IN FEES FROM BRANIFF (AND PAN AM IF THAT CARRIER IS SO INCLINED) BE HELD IN ABEYANCE.

7. COMMENT: WE WOULD HOPE THAT THE GOA IS WILLING TO
MOVE ON THESE ISSUES. THERE HAS BEEN AMPLE DISCUSSION

THIS MATTER UP TILL NOW WITH NO RESULTS. USG SIMPLY
WILL NOT TOLERATE CONTINUATION OF CURRENT SITUATION. VANCE

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